

Instructions for Filing a Civil Rights Complaint Under 42 U.S.C. §1983: Prisoner Cases

Note: Pursuant to the Prison Litigation Reform Act (PLRA), 42 U.S.C. §1997e requires prisoners to exhaust available administrative remedies before initiating a prison condition case under 42 U.S.C. §1983. Failure to exhaust such remedies will result in dismissal of your case.

Enclosed is a §1983 complaint form, a Petition and Affidavit to Proceed *in forma pauperis*, including an Authorization for Release of Institution Account Information, Payment of the Filing Fee and an information sheet. The filing fee is \$350, which must be paid at the time the action is filed. If you are unable to pay the fee, you may petition the court for leave to proceed *in forma pauperis*. (See enclosed information sheet).

Instructions:

1. You must file with the Clerk of the United States District Court only an **ORIGINAL COMPLAINT**. You also should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten or typed. The complaint must be signed by each plaintiff and should include the prisoner identification number of each plaintiff. The complaint need not be notarized. Answer each question to the best of your knowledge and belief. Be concise.
3. Provide facts supporting your claims. You must explain what each defendant did to violate your federal rights. Include the relief you are requesting from the court.
4. Please try to keep your complaint to the space provided. However, if you need additional space to answer a question or state your claim, attach blank pages to the form. Do not use the back of the form.
5. If you are unable to prepay the filing fee, you may petition the court for leave to proceed *in forma pauperis* by completing and signing, under penalty of perjury, the enclosed petition and financial affidavit. This need not be notarized. Each plaintiff who seeks to file *in forma pauperis* must complete a petition and affidavit.
6. You must also file a certified copy of your trust fund account statement for the six month period immediately preceding the filing of the complaint.
7. When these forms are properly completed, mail them to:

Clerk, United States District Court
United States Courthouse
P. O. Box 432
Madison, Wisconsin 53701-0432

Information to Prisoners Seeking Leave to Proceed with a Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. §1915.

In accordance with the provisions of the Prison Litigation Reform Act (PLRA) which amended the *in forma pauperis* (IFP) statute, once a prisoner is permitted to file a civil action, the prisoner is responsible for the full filing fee of \$350, even if the prisoner is granted leave to proceed IFP.

If you do not have enough money to prepay the full filing fee when your action is filed, you may request leave to proceed IFP. If you are granted leave to proceed, your complaint will not be served on the defendants unless the court determines that you have no income and no deposits to your prison account or until the court has assessed and collected an initial partial filing fee of 20 percent of:

1. the average monthly deposits to your account for the preceding six-month period, or
2. the average balance in your account for that same six-month period, whichever sum is greater.

After you have paid your initial fee, you must make monthly payments to the court equal to 20 percent of your preceding month's income until the \$350 filing fee is paid in full.

To proceed with an action, you must complete the enclosed petition and affidavit of indigency and return it to the court with your ORIGINAL COMPLAINT and a certified copy of your prison trust account statement showing transactions for the last six months.

Regardless whether some or all of the filing fee has been paid, the court is required to screen your complaint and to dismiss it if (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages. 28 U.S.C. §1915(e).

No action may be brought with respect to prison conditions under 42 U.S.C. §1983 or any other federal law by a prisoner confined in a correctional institution until any available administrative remedies are exhausted; that is, until you have sought relief through administrative channels and been denied such relief. 42 U.S.C. §1997e.

Please note: If you file more than three actions while you are a prisoner that are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, the PLRA prohibits you from requesting leave to proceed IFP in any other action unless you are in imminent danger or serious physical injury. 28 U.S.C. §1915.

**United States District Court
Western District of Wisconsin**

_____,
(Full name of plaintiff[s])

_____,
(Prisoner I.D. Number)

Case No. _____
(Provided by clerk of court)

Plaintiff(s),

v.

_____,
_____,
(Full name of defendant[s])

Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. PLACE OF PRESENT CONFINEMENT (Provide full address)

A. Is there a grievance procedure in your prison/jail? YES ☐ NO ☐

B. Have you filed a grievance concerning the facts relating to this complaint?
YES ☐ NO ☐

C. If you have used the grievance process:

1. Describe what you did and the result, if any.

2. Is the grievance process completed? _____

D. If you did not use the grievance process, explain why not.

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II. PARTIES

A. Your name (Plaintiff) _____

B. Prisoner I.D. Number _____

C. Your address _____

(For additional plaintiffs provide the same information in the same format on a separate page.)

D. DEFENDANT (name) _____

is employed as _____

at _____

E. Additional DEFENDANTS (names and positions):

III. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court relating to the same facts involved in this action? YES ☐ NO ☐

B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES ☐ NO ☐

C. If your answer is YES to either of the above questions, provide the following requested information.

1. Parties to the previous lawsuit

Plaintiff(s): _____

Defendant(s): _____

2. Date filed _____

3. Court where case filed (if federal court, name district; if state court, name the

county) _____

4. Case number and citation _____

5. Basic claim made _____

6. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____

7. If resolved, date of disposition _____

8. If resolved, state whether for _____
(Plaintiff or Defendant)

(For additional cases, provide the above information in the same format on a separate page.)

IV. STATEMENT OF CLAIM

- A. State as briefly as possible the facts of your case. Describe how each named defendant is involved. Include the names of other persons involved, dates, and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item “B” below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

[illegible]

V. RELIEF YOU REQUEST

State briefly and exactly what you want the court to do for you. Make no legal arguments. Do not use this space to state the facts of your claim. Use it only to request remedies for the injuries you complain about.

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this ____ day of _____, 20____.

Signature of Plaintiff(s)

(If there are multiple plaintiffs, each must sign the complaint)

Prisoner I.D. Number(s)

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Full name of plaintiff(s) or petitioner(s)

Case No. _____
(Provided by the clerk of court)

v.

Full name of defendant(s) or respondent(s)

**PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

I, _____, declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion. I answer the following questions truthfully and under penalty of perjury (additional pages may be added, if necessary, to provide complete information):

I. Personal Information

1) Are you currently incarcerated? ☐ Yes ☐ No

If "No," go to question 2. Complete all sections.

If "Yes," answer questions (a), (b) & (c), skip to Section IV. Complete sections IV and V.

(a) State the place of your incarceration and provide your prisoner identification number:

(place)

(number)

(b) Are you employed at the institution? ☐ Yes ☐ No

(c) Do you receive any payment from the institution? ☐ Yes ☐ No

If you are a prisoner, attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. Prisoners who are permitted to file in forma pauperis must pay the full filing fee in installments.

Personal Information - continued

- 2) Are you employed? ☐ Yes ☐ No
- 3) Are you currently married? ☐ Yes ☐ No
 If "Yes," is your spouse employed? ☐ Yes ☐ No
- 4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?
☐ Yes ☐ No

If "Yes," list them below:

<u>First and Last Initials (For Minor Children Only) or Name</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support Provided Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Income - If you are married, your answers ***must include your spouse's income.***

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total *monthly* income? \$ _____

Provide the name of your employer(s): _____

State your spouse's total *monthly* income? \$ _____

State the amount of money you have received from any other source in the last twelve months (e.g., rent payments, pension or insurance payments, gifts, inheritance, disability or workers' compensation payments). Please attach an additional sheet if necessary.

<u>Source of income</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____

III. Expenses - If you are married and/or have dependents, ***your expenses should also include your household's expenses.***

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance.)

1) Identify the following amounts that you pay per month:

☐ Rent or ☐ Mortgage \$ _____

Car payment(s) \$ _____

Alimony and/or court-ordered child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

☐ Yes ☐ No

If "Yes," list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

IV. Property - If you are married, your answers must ***include your spouse's property.***

1) Do you own a car? ☐ Yes ☐ No If "Yes," list car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? ☐ Yes ☐ No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the residence(s)? \$ _____

IV. Property - continued

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques? ☐ Yes ☐ No

If "Yes," identify the property and approximate value(s).

<u>Property</u>	<u>Approximate Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

4) Do you have any cash or checking, savings, or other similar accounts? ☐ Yes ☐ No

If "Yes," state the total amount of such sums. \$ _____

5) Do you own any intangible property, including but not limited to real estate, stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401 k)?
☐ Yes ☐ No

If "Yes," state the nature of that property and approximate value(s).

V. Other Circumstances - Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

Date

Signature - Signed Under Penalty of Perjury